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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,643	01/29/2004	Arthur F. Doty III	29878-4	5402
44443	7590	05/15/2008		
NEXSEN PRUET, LLC PO DRAWER 2426 COLUMBIA, SC 29202-2426			EXAMINER DABNEY, PHYLESHA LARVINIA	
			ART UNIT 2614	PAPER NUMBER
			NOTIFICATION DATE 05/15/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/767,643

Applicant(s)

DOTY ET AL.

Examiner

PHYLESHA L. DABNEY

Art Unit

2614

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/24/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 20, 21 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 9-19, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to the Application filed on 24 January 2008 in which claims 1, 3-29 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 20, 24, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Shibazaki (Patent No. JP 8-154119).

Regarding claims 1 and 28, Shibazaki teaches a phone case for a phone body (1) having when in use a face with a microphone near one end of the phone body and a speaker near another end of the phone body, said case comprising a pocket (2-6) having a bottom wall (4), opposing side walls (at 5-6), and a mouth end wall (4) connected to said bottom and side walls beyond the microphone end of the phone body when nested in said pocket; wherein said sidewalls (at 5-6) extend along corresponding sides of the phone body from beyond the microphone end thereof to beyond the speaker end thereof; and wherein said side and end walls extend away from said bottom wall to form a pocket opening with a rim (figs. 1-3) extending around the mouth such that the mouth is hidden from view and words spoken in a normal voice by a user of the phone body are received by the microphone while being muffled and blocked beyond the case sufficiently to be substantially unintelligible to persons in the vicinity of the user.

Regarding claim 2, Shibazaki teaches a phone case according to claim 1, wherein portions of said rim (figs. 2-3) on opposite sides of said pocket opening have a curved shape conforming generally to the contour of a human face from an ear to a mouth.

Regarding claim 3, Shibazaki teaches a phone case according to claim 1, wherein said side and end walls are made of a flexible (paragraph 0009), sound absorbing material (paragraph 0009), and said rim is sufficiently deformable to conform (figs. 2-3) substantially to said face contour and form a substantial sound seal when pressed against a human face.

Regarding claim 4, Shibazaki teaches a phone case according to claim 1 further comprising an ear end wall (3) connected to said bottom and side walls beyond the speaker end of the phone body when nested in said pocket, said ear end wall extending from said bottom wall to beyond the phone face to form an ear portion of said rim (abstract; paragraphs 0006-0007) that is adapted to be placed behind an ear lobe to reduce external noise that would otherwise interfere with the phone user's hearing of words emitted by the phone's speaker, and wherein said rim (fig. 1) extends substantially continuously around the perimeter of said pocket opening.

Regarding claim 5, Shibazaki teaches a phone case according to claim 1 further comprising means (2) for retaining the phone body in said pocket with its microphone end adjacent said mouth end wall;

Regarding claim 20, Shibazaki teaches a phone case according to claim 1, wherein said side and end walls are made of a sound absorbing material to facilitate the muffling and blocking of the user's words beyond the case (paragraph 0009).

Regarding claim 24, Shibazaki teaches a phone case for a phone body (1) having when in use a face with a microphone near one end of the phone body and a speaker near another end of the phone body, said case comprising a pocket (2-6) having a bottom wall (4), opposing sidewalls (at 5-6), a mouth end portion (4) connected to said bottom and side walls beyond the microphone end of the phone body when nested in said pocket, and an ear end portion (3) connected to said bottom and side walls beyond the speaker end of the phone body when nested in said pocket; wherein said sidewalls extend along corresponding sides of the phone body from beyond the microphone end thereof to beyond the speaker end thereof; wherein said sidewalls (at 5-6) and said mouth end portion (4) extend away from said bottom wall to form a pocket (5-6) opening with a rim extending around the mouth such that the mouth is hidden from view and words spoken in a normal voice by a user of the phone body are received by the microphone while being muffled and blocked beyond the case sufficiently to be substantially unintelligible to persons in the vicinity of the user; wherein said case is made of a flexible material (paragraph 0009), and said mouth end portion and said ear end portion each comprise a fold line (fig. 1); and wherein the bottom wall comprises at least one fold line (fig. 1) such that the case is collapsible along said fold lines from an open condition for receiving the phone body to a collapsed condition in which said opposing sidewalls may be brought into abutment upon removal of the phone body (abstract; paragraphs 0006-0007).

Regarding claim 26, Shibazaki teaches a phone case according to claim 24, wherein said ear end portion (4) extends from said bottom wall to beyond the phone face to form an ear portion of said rim (fig. 1) that is adapted to be placed behind an ear lobe to reduce external noise that would otherwise interfere with the phone user's hearing of words emitted by the phone's speaker (abstract; paragraphs 0006-0007).

Regarding claim 27, Shibazaki teaches a phone case according to claim 24, wherein a portion of said rim (figs. 1-3) along each of said sidewalls comprises an inwardly projecting lip of flexible material that provides a smooth surface for comfortably contacting the user's face and a substantial sound seal with the user's face (abstract; paragraphs 0006-0007).

Regarding claim 29, see the rejection of claims 1 and 4 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shibazaki in view of Domotor (U.S. Patent No. 6,772,879).

Regarding claim 8, Shibazaki teaches a phone case according to claim 1 for carrying a cellular phone body having the pocket opening (2-6). Shibazaki fails to teach a phone case

according to claim 1 for carrying a cellular phone body, wherein an upper portion of the phone case is adapted to be folded over a lower portion thereof to close the pocket opening, and wherein the case further comprises connecting means for detachably connecting said upper portion to said lower portion to keep said pocket closed. More specifically, Shibazaki fails to teach any details regarding how the pocket opening is closed.

In a similar field of endeavor, Domotor teaches an upper portion (102) of the phone case is adapted to be folded over a lower portion (104) thereof to close the pocket opening, and wherein the case further comprises connecting means (120, 124, 130) for detachably connecting said upper portion to said lower portion to keep said pocket closed for securing and providing protection to the cellular phone body. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to close the pocket opening of Shibazaki using connecting means as taught by Domotor for the reasons stated.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shibazaki.

Regarding claim 21, Shibazaki fails to teach a phone case according to claim 1 for a receiver phone body of a corded phone, wherein the case further comprises an aperture in a wall of the case through which a cord may pass to connect the receiver body to a base of the corded phone.

However, the Examiner takes official notice that it is extremely well known in the art to incorporate an aperture in a wall of the case through which a cord may pass to connect the receiver body to a base of the corded phone for providing power, programming, or battery charging. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to include an aperture in the wall of the invention of Shibazaki for the reasons stated.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shibazaki in view of Vanmoor (U.S. Patent No. 5,778,062).

Regarding claim 25, Shibazaki fails to teach a phone case according to claim 24, wherein said bottom wall comprises at least three fold lines for forming at least one pleat when said case is in its collapsed condition.

In a similar field of endeavor, Vanmoor teaches incorporating at least three fold lines in the bottom wall (Vanmoor, 1) for forming at least one pleat when said case is in its collapsed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the known pleated bottom wall of Vanmoor in the invention of Shibazaki to beneficially yield an accordion type end portion, thus a more compact/comforming case.

Allowable Subject Matter

Claims 6-7, 9-19, and 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wu (U.S. Patent No. 2002/0175099), Racca (U.S. Patent No. 6182878), and Yu (U.S. Patent No. 5,610,979) teaches incorporating an aperture as pertaining to claim 21 above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHYLESHA L. DABNEY whose telephone number is (571)272-7494. The examiner can normally be reached on Mondays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
P O Box 1450
Alexandria, VA 22313-1450

Or faxed to:
(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

Hand-delivered responses should be brought to:
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April 1, 2008

PLD

//Curtis Kuntz//
Supervisory Patent Examiner, Art Unit 2614

